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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/763,630

01/24/2004

Russell Dennis

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LEXINGTON, KY 40544

EXAMINER

FERGUSON, MICHAEL P

ART UNIT

PAPER NUMBER

3679

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/10/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/763,630	<b>Applicant(s)</b> DENNIS, RUSSELL	
	<b>Examiner</b> Michael P. Ferguson	<b>Art Unit</b> 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 (lines 11-12) recites "said pawl having an engaging end perpendicular to said pawl, said engaging end further having a planer surface engaging said end". It is unclear as what the applicant intended to recite; as clearly the end cannot engage itself. Such limitations render the claim indefinite, as one cannot determine the metes and bounds of such claim limitations. Claims 2-13 depend from claim 1 and are likewise rejected.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over House et al. (US 6,648,305) in view of Reiff (US 6,848,678).

As to claims 1 and 8, as best understood, House et al. disclose a device for tensioning a flexible member relative to a structure comprising:

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a body **98** for engaging a support structure;

the body supporting a tensioner **94,96**, the tensioner rotationally supported by the body;

the tensioner comprising an end;

a pawl **70** supported on the body and rotationally movable to engage one end thereof with the tensioner;

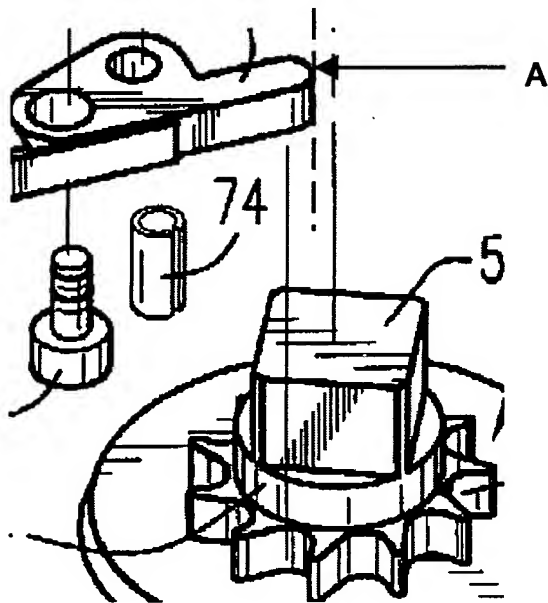
a head **58,60** formed on the end of the tensioner for rotation thereof,

the pawl having an engaging end **A** (having a tangential end surface **A**) perpendicular to the pawl and engaging the surface of a portion of the tensioner, thereby blocking rotational movement of the tensioner;

wherein the body supports a pair of tensioners **94,96** for rotation;

a pair of pawls **70** each supported on the body and rotationally moveable to engage one end thereof with one of the tensioners, the pawl having an engaging end (having linear end surface **A**) perpendicular to the pawl, the engaging end further having a planer surface engaging an area on the surface of a portion of the tensioner thereby blocking movement of the tensioner,

each of the tensioners having a head **58,60** formed on the end thereof (Figures 4 and 6).



House et al. disclose a device comprising a head formed on the end of each tensioner, instead of a depression formed within and surrounded by the one end of each tensioner for rotation thereof

Reiff teaches a device comprising a depression **168** formed within and surrounded by an end of a tensioner **150** for rotation thereof (Figures 8 and 11). Inasmuch as the references disclose a head formed on the end of a tensioner, and a depression formed within the end of a tensioner as art recognized equivalents, it would have been obvious to one of ordinary skill in the exercise art to substitute one for the other. In re Fout, 675 F.2d 297, 301, 213 USPQ 532, 536 (CCPA 1982).

Examiner notes that a "planar" surface is defined as "a surface in which if any two points are chosen a straight line joining them lies wholly in that surface". Accordingly, all that is structurally required of a "planar" surface is that a linear surface is defined; clearly a linear contact surface exists along linear end surface **A** of the House et al. reference. If the applicant intends to recite an end surface which has both

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a width and a length component which are perpendicular to a longitudinal length of the pawl, then such claim limitations should be clearly recited within the claim.

As to claim 2, House et al. disclose a device wherein the pawl 70 is biased toward a position wherein the pawl engaging end **A** is blockingly engaged with the tensioner **94,96** (Figure 4).

As to claim 3, House et al. disclose a device wherein the body **98** is unitary (body **98** functions as a single body unit, thus being unitary).

As to claim 4, House et al. disclose a device wherein the tensioner **94,96** comprises a substantially cylindrical structure having an opening **46, 36,38,40** substantially parallel to the axis of the cylinder for receiving an end of a flexible member (Figure 4).

As to claim 5, House et al. disclose a device wherein the opening **46,36,38,40** comprises a widening **36,38,40** (grooves **36,38,40** define an annular widening of opening **46,36,38,40**; such annular widening is clearly located within the body of the tensioner) of the opening within the tensioner to accommodate thickened portions of the flexible member (Figure 4).

Examiner notes that annular grooves **36,38,40**, defining annular widening of opening **46,36,38,40**, are clearly located within the body of the tensioner. If the applicant intends to recite the cross-section of the opening having widening portions which are perpendicular to the longitudinal length of the opening, then such claim limitations should be clearly recited within the claim.

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As to claim 6, House et al. disclose a device wherein the widening **36,38,40** of the opening **46,36,38,40** is located proximate each end of the opening and at mid-opening (Figure 4).

As to claim 7, House et al. disclose a device wherein the bias is provided by a tension spring **78** connected to the pawl **70** (Figure 4, column 4 lines 37-40).

As to claim 9, House et al. disclose a device wherein the body **98** is unitary (body **98** functions as a single unit, thus being unitary).

As to claim 10, House et al. disclose a device wherein each tensioner **94,96** comprises a substantially cylindrical structure having an opening **46, 36,38,40** substantially parallel to the axis of the cylinder for receiving an end of a flexible member (Figure 4).

As to claim 11, House et al. disclose a device wherein the opening **46,36,38,40** comprises a widening **36,38,40** (grooves **36,38,40** define an annular widening of opening **46,36,38,40**; such annular widening is clearly located within the body of the tensioner) of the opening within the tensioners to accommodate thickened portions of the flexible member (Figure 4).

Examiner notes that annular grooves **36,38,40**, defining annular widening of opening **46,36,38,40**, are clearly located within the body of the tensioner. If the applicant intends to recite the cross-section of the opening having widening portions which are perpendicular to the longitudinal length of the opening, then such claim limitations should be clearly recited within the claim.

As to claim 12, House et al. disclose a device wherein the widening **36,38,40** of the opening **46,36,38,40** is located proximate each end of the opening and at mid-opening (Figure 4).

As to claim 13, House et al. disclose a device wherein the bias is provided by a tension spring **78** connected to the pawls **70** (Figure 4, column 4 lines 37-40).

### ***Response to Arguments***

5. Applicant's arguments filed November 13, 2006 have been fully considered but they are not persuasive.

As to claim 1, Attorney argues that:

House et al. do not disclose a device comprising wherein the pawl has an engaging end *perpendicular to the pawl, the engaging end further having a planer surface engaging an area on the surface of a portion of the tensioner*, thereby blocking movement of the tensioner.

Examiner disagrees. As to claims 1 and 8, as best understood, House et al. disclose a device wherein the pawl **70** has an engaging end **A** (having linear end surface **A**) perpendicular to the pawl, the engaging end further having a planer surface engaging an area on the surface of a portion of the tensioner, thereby blocking movement of the tensioner (Figures 4 and 6).

Examiner notes that a "planar" surface is defined as "a surface in which if any two points are chosen a straight line joining them lies wholly in that surface". Accordingly, all that is structurally required of a "planar" surface is that a linear surface is defined; clearly a linear contact surface exists along linear end surface **A** of the



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House et al. reference. If the applicant intends to recite an end surface which has both a width and a length component which are perpendicular to a longitudinal length of the pawl, then such claim limitations should be clearly recited within the claim.

As to claim 5 and 11, Attorney argues that:

House et al. do not disclose a device wherein the opening comprises *a widening of the opening within the tensioner* to accommodate thickened portions of the flexible member.

Examiner disagrees. As to claims 5 and 11, House et al. disclose a device wherein the opening **46,36,38,40** comprises a widening **36,38,40** (grooves **36,38,40** define an annular widening of opening **46,36,38,40**; such annular widening is clearly located within the body of the tensioner) of the opening within the tensioner to accommodate thickened portions of the flexible member (Figure 4).

Examiner notes that annular grooves **36,38,40**, defining annular widening of opening **46,36,38,40**, are clearly located within the body of the tensioner. If the applicant intends to recite the cross-section of the opening having widening portions which are perpendicular to the longitudinal length of the opening, then such claim limitations should be clearly recited within the claim.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (8:00-5:00).

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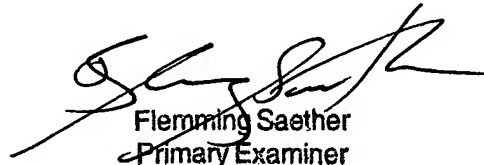
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MPF

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Flemming Saether  
Primary Examiner